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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

DISH NETWORK L.L.C.,

Plaintiff,

v.

JADOO TV, INC. et al.,

Defendants.

Case No. 2:18-cv-9768-FMO (KSx)

**SECOND STIPULATION AND JOINT
MOTION TO MODIFY SCHEDULING
ORDER**

Honorable Fernando M. Olguin

[Declaration of Stephen M. Ferguson and
Proposed Order Filed Concurrently]

The U.S. Bankruptcy Court for the Northern District of California entered an order lifting the automatic stay effective January 14, 2020 to permit DISH Network L.L.C. (“DISH”) to prosecute its claims against JadooTV, Inc. (“JadooTV”) in this action. Therefore, DISH, JadooTV, and Sajid Sohail (collectively the “Parties”) move the Court to reset deadlines to provide the amount of time that was remaining in the original Scheduling Order (Dkt. 50) at the time the automatic stay was imposed by JadooTV’s May 31, 2019 bankruptcy filing, including resetting the deadline for completion of fact discovery to April 23, 2020, and adjusting the other deadlines accordingly.

The Parties are in agreement on all proposed deadlines with the exception of the deadline for mediation, and the Parties' positions on mediation are set forth in Section IV.

I. PROCEDURAL HISTORY

1. The current Scheduling Order, which was modified during the period of the automatic stay as to JadooTV, provides the following deadlines:

- a. Completion of fact discovery: February 7, 2020;
- b. Completion of settlement conference: February 7, 2020;
- c. Initial expert witness disclosures: February 21, 2020;
- d. Rebuttal expert witness disclosures: March 20, 2020;
- e. Completion of expert discovery: April 20, 2020;
- f. Dispositive motions: May 20, 2020;
- g. Memoranda of Contentions of Fact and Law; Witness Lists; Pretrial Exhibit Stipulation; Joint Motions in Limine: July 17, 2020;
- h. Proposed Pretrial Conference Order; Joint Jury Instructions; Disputed Jury Instructions; Joint Proposed Verdict Form; Joint Statement of the Case; Proposed Additional Voir Dire Questions; Reply Memoranda to Motions in Limine: July 24, 2020;

- i. Final pretrial conference: August 7, 2020; and
- j. Trial: August 25, 2020.

(Dkt. 120 at 1-2.)

2. This Court reset the case deadlines on two prior occasions while the automatic stay was in place (Dkts. 101, 120). This is the Parties' third request to reset the case deadlines, but it is the first request made after the stay has been lifted. (Dkts. 100, 119).

II. LEGAL STANDARD

3. “A schedule may be modified only for good cause and with the judge’s consent.” Fed. R. Civ. P. 16(b)(4). “Rule 16(b)’s ‘good cause’ standard primarily considers the diligence of the party seeking the amendment.” *Johnson v. Mammoth recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992). “The district court may modify the pretrial schedule if it cannot reasonably be met despite the diligence of the party seeking the extension.” *Id.*

III. GOOD CAUSE TO MODIFY SCHEDULING ORDER

4. The March 8, 2019 Scheduling Order provided the Parties with six months to complete fact discovery, setting a deadline of September 9, 2019. (Dkt. 50 at 17.)

5. On May 31, 2019, JadooTV filed for bankruptcy and an automatic stay of these proceedings took effect as to JadooTV after less than three months of fact discovery. (Dkt. 78.)

6. Only a limited exchange of documents occurred before the automatic stay went into effect and during the pendency of the bankruptcy as directed by the bankruptcy court. Only one deposition has occurred due to the stay and limited exchange of documents.

7. On January 14, 2020, the automatic stay was lifted as to JadooTV to allow DISH to liquidate its claims against JadooTV in this copyright action. (Declaration of Stephen M. Ferguson [Ferguson Decl.] ¶ 5, Ex. 1.)

8. The Parties jointly request that the Court modify the Scheduling Order to permit the Parties to complete the remaining three months and nine days of fact discovery provided for in the original Scheduling Order, including the completion of fact discovery by April 23, 2020, and adjusting the other deadlines accordingly.

9. Good cause exists to modify the Scheduling Order because the case was stayed as to the main defendant, JadooTV.

IV. MEDIATION

A. DISH's Statement:

JadooTV and Sohail previously attempted to force DISH to mediate by the prior deadline of December 7, 2019. (Dkt. 119 at 7:16-19; Ferguson Decl. ¶ 6, Ex. 2.) Pursuant to DISH’s motion, the Court modified the Scheduling Order to reset the mediation deadline to February 7, 2020. (Dkts. 119, 120 at 2:1-2.)

On November 26, 2019, the mediation was rescheduled to February 6, 2020, and space was reserved at the First Street Courthouse. (Ferguson Decl. ¶ 7, Ex. 3.) DISH and its counsel have made nonrefundable travel arrangements, and DISH's mediation statement has already been prepared. (Ferguson Decl. ¶ 8, Ex. 4.) DISH proposes keeping mediation on schedule for completion by February 7, 2020, in order to preserve resources and decrease litigation costs if the case can be settled at mediation.¹

The Court should retain the existing mediation deadline of February 7, 2020.

B. JadooTV and Sohail's Statement:

A hearing on Haseeb Shah's Motion to Stay Pending Resolution of Motion to Dismiss (Dkt. 124) is set for February 6, 2020, conflicting with the mediation scheduled for that same day. JadooTV and Sohail propose continuing the mediation

¹ JadooTV and Sohail's alleged reason for wanting to continue the mediation deadline is the hearing set for February 6, 2020, on Haseeb Shah's Motion to Stay Pending Resolution of Motion to Dismiss. (Dkt. 124; Ferguson Decl. Ex. 4 at 1.) However, JadooTV and Sohail's current counsel did not file this motion, did not file an opposition to it, and therefore has no interest in attending the hearing, assuming it proceeds as noticed. (*Id.*)

deadline to April 23, 2020 – the date of the Parties’ stipulation for the completion of fact discovery.

V. CONCLUSION

The Parties request that the Court reset the deadlines to the amount of time that was remaining in the original Scheduling Order (Dkt. 50), at the time of JadooTV's May 31, 2019 bankruptcy filing, including resetting the deadline for completion of fact discovery to April 23, 2020, and adjusting the other deadlines accordingly. DISH requests that the Court maintain the existing mediation deadline of February 7, 2020, but JadooTV and Sohail request that the Court continue the mediation deadline to April 23, 2020. A proposed order has been concurrently filed.

By:/s/ *Stephen M. Ferguson*

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1 Dated: January 22, 2020

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Counsel for Defendants JadooTV, Inc. and Sajid Sohail

ATTESTATION

Pursuant to Local Rule 5-4.3.4(a)(2), I hereby attest that the other signatory listed concurs in this filing's content and has authorized the filing.

Dated: January 22, 2020

By:/s/ Stephen M. Ferguson

Stephen M. Ferguson